

RECEIVED

SEP - 1 2017

TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

BYRON J. BOUDREAUX, JR.

CIVIL ACTION NO. 6:16-01264

VERSUS

JUDGE JAMES T. TRIMBLE, JR.

NANCY A. BERRYHILL, ACTING COMM.
OF SOCIAL SECURITY

MAG. JUDGE HANNA

MEMORANDUM RULING AND ORDER

Before the court is a "Motion for Award of Attorney Fees Pursuant to the Equal Access to Justice Act, 28 U.S.C.A. § 2412(d)" (R. #11) wherein Plaintiff, by his attorney, J.P. Morella, moves the Court to award attorney fees to be paid by Defendant, the Commissioner of Social Security pursuant to the Equal Access to Justice Act ("EAJA"). Plaintiff's counsel seeks 34.65 hours at a \$200.00 hourly rate plus copying costs. The Commissioner challenges the total amount of attorney fees. Specifically, the Commissioner argues that 3.0 hours of the time Mr. Morella spent is not compensable under the EAJA because the hours worked were at the administrative level and are not compensable under the EAJA citing Dickey v. Colvin.¹ The court agrees that the hours should be reduced by 3.0 hours.

The Commissioner objects to Mr. Morella's hourly rate of \$200.00 suggesting that a rate of \$175.00 is more reasonable based on the approved rate by this court in 2016 and 2017. The court agrees that \$175.00 is a more reasonable rate.

¹ 2016 WL 7383870, at *3 (W.D. La. Nov. 29, 2016)(time for work performed at the administrative level is not compensable under the EAJA); Scott v. Colvin, 2013 WL 3283338 at *3 (W.D. La. June 27, 2014)(noting that hours for work performed at the administrative level are not compensable under the EAJA).

Finally, the Commissioner objects to the award of attorney fees being sent directly to Mr. Morella citing Montgomery v. Colvin.² An EAJA fee award is payable to the prevailing litigant, not the attorney.³ Accordingly, the request that the attorney fees award be made payable directly to Mr. Morella will be denied.

CONCLUSION

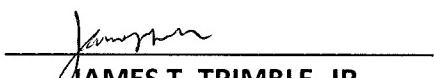
Based on the foregoing, the court awards Plaintiff the attorney fees in the amount of \$5,577.45 as follows:

$$31.75 \text{ hours} \times \$175.00 = \$5,556.25$$

Copy costs = 21.20

Total \$5,577.45

THUS DONE AND SIGNED in Alexandria, Louisiana on this 1st day of September, 2017.



JAMES T. TRIMBLE, JR.
UNITED STATES DISTRICT JUDGE

² 2016 WL 4705730 at *1-3 (W.D. La. Aug. 16, 2016)(rejecting plaintiff's counsel's claim that because the plaintiff assigned his right to attorney's fees to counsel, any payment of fees should be made directly to counsel – provided plaintiff does not owe a federal debt).

³ Astrue v. Ratliff, 560 U.S. 586, 589 (2010).